

Hearing Date: June 28, 2017 at 9:30 a.m.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*¹

Debtors.

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

Re: Docket No. 210

**LIMITED OBJECTION OF AMBAC ASSURANCE CORPORATION TO MOTION OF
DEBTOR ENTITIES FOR ORDER (A) PROHIBITING UTILITIES FROM ALTERING,
REFUSING, OR DISCONTINUING SERVICE, (B) DEEMING UTILITIES
ADEQUATELY ASSURED OF FUTURE PERFORMANCE, AND (C) ESTABLISHING
PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT**

Ambac Assurance Corporation (“Ambac”), a holder and/or insurer of approximately \$2.7 billion of bonds issued by the Debtors and other Commonwealth instrumentalities, hereby submits this limited objection (the “Objection”) to the Motion of Debtor Entities For Order (A) Prohibiting Utilities from Altering, Refusing, or Discontinuing Service, (B) Deeming Utilities Adequately Assured of Future Performance, and (C) Establishing Procedures for Determining Adequate Assurance of Payment (D.I. 210) (the “Utilities Motion”). In support of its Objection, Ambac respectfully submits as follows:

¹ The Debtors in these Title III cases, along with each Debtor’s respective bankruptcy case number and the last four digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Case No. 17 BK 3283-LTS) (Tax ID: 3481) and (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Case No. 17 BK 3284) (Tax ID: 8474).

LIMITED OBJECTION

1. Ambac objects to the Utilities Motion only to the extent it requests an order directing *all* Debtors (rather than only the Debtor to which an applicable Utility Provider² provides service) to provide each Utility Provider with an administrative expense priority claim.³ AAFAF has acknowledged that COFINA itself does not have any utility providers,⁴ and nothing in section 366(a) of the Bankruptcy Code requires a debtor to provide adequate assurance to a utility that has no service relationship with, and is owed no debt by, such debtor.

2. The Court has made plain that the joint administration of the Debtors' Title III cases is "for procedural purposes only," and no substantive rights will be affected by such joint administration.⁵ However, by its terms, the proposed order accompanying the Utilities Motion (the "Utilities Order") would affect the substantive rights of COFINA by granting non-creditors with an administrative expense priority claim against COFINA.

3. As such, if the Court is otherwise prepared to grant the relief requested in the Utility Motion, the Utilities Order should be modified throughout to clarify that the rights and obligations established in the order are unique to the Commonwealth, which is the only Debtor that has a relationship with a Utility Provider. Attached as Exhibit 1 to this limited Objection is a redline of

² Capitalized terms used by not defined herein shall have the meaning ascribed to them in the Utilities Motion.

³ Although AAFAF acknowledges that *the Commonwealth* is responsible for Utility Services (Utilities Motion ¶ 11), AAFAF also contemplates that the *Debtors*, a term defined to include COFINA, "will provide Utility Providers with an administrative expense priority claim for postpetition, unpaid Utility Services[.]" *Id.* ¶ 13.

⁴ See Motion to Withdraw May 22, 2017 Motion Filed in Case No. 17-BK-3284 (LTS) Requesting an Order (A) Prohibiting Utilities from Altering, Refusing, or Discontinuing Service, (B) Deeming Utilities Adequately Assured of Future Performance, and (C) Establishing Procedures for Determining Adequate Assurance of Payment (Case No. 17-BK-3284-LTS, Dkt. No. 117) (the "Withdrawal Motion") ¶ 3 (acknowledging that COFINA itself does not have any utility providers and reserving the right to re-file the motion in COFINA's Title III proceeding "should any party claiming to be a utility provider to COFINA come[] forward and [identify] itself."). The Court granted the Withdrawal Motion on May 25, 2017. (Order, Case No. 17-BK-3284-LTS, Dkt. No. 118.)

⁵ Order Pursuant to PROMESA Section 304(g) and Bankruptcy Rule 1015(b) Directing Joint Administration of Title III Cases and Granting Related Relief (Dkt. No. 242) ¶¶ 2, 7.

the Utility Order, setting forth the changes that would clarify that the relief requested by AAFAF applies only to the Commonwealth, and not to COFINA.

CONCLUSION

For the reasons set forth herein, Ambac respectfully requests that the Court (i) deny the Utilities Motion unless the Utilities Order is revised as set forth on Exhibit 1 and (ii) grant such other and further relief as the Court deems appropriate.

Dated: June 16, 2017
San Juan, Puerto Rico

FERRAIUOLI LLC

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CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

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